

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

Review WPMP No.15156 OF 2007
in
WRIT PETITION No.8063 of 2006

Between:

M/s.Sri Veera Venkat Satyanarayana Rice Mill
and another

. . .Petitioners

AND

State Bank of India and another

. . .Respondents

:: ORDER ::

Counsel for the petitioners : Shri P.A.V.Balaprasad

Counsel for respondent No.1 : Shri M.Narender Reddy

20th July, 2007

PER G.S.SINGHVI, CJ

This is a petition for review of order dated 26.4.2006 passed in Writ Petition No.8063 of 2006 filed by the petitioner against the threatened auction of the property by the State Bank of India (for short, 'the bank') for realization of its dues.

A perusal of the record shows that on account of the petitioners' failure to repay the loan taken from the bank, the latter filed an application under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The same was allowed by the Debts Recovery Tribunal, Visakhapatnam (for short, 'the Tribunal') and the claim of the bank was decreed. The application filed for setting aside the decree was dismissed by the Tribunal, but, on appeal, the Debts Recovery Appellate Tribunal at Chennai restored the original application and directed the Tribunal to decide the same afresh subject to the condition of depositing 30% of the decretal amount by the petitioners.

After sometime, the petitioners filed writ petition by contending that the bank was taking coercive steps to recover its dues. The same was registered as Writ Petition No.8063 of 2006 and was disposed of by the Division Bench vide order dated 26.4.2006. The relevant portions of that order are reproduced below:

“On the last date of hearing i.e. 21-04-2006, learned counsel for the petitioners gave out that his clients are ready and willing to pay the balance amount but some time may be given for that purpose. After taking note of this statement, we called upon Sri Ambadiputi Satyanarayana, advocate representing the bank to seek instructions.

Learned counsel for the bank says that his client is prepared for an amicable settlement of the matter provided the writ petitioners

pay PLR interest and costs and legal expenses.

Learned counsel for the petitioner says that his client is ready to pay the balance amount with interest but the bank may not insist on payment of costs and legal expenses.

Having considered the respective submissions, we dispose of the writ petition in the following terms:

1) The bank shall be free to withdraw Rs.5 lakhs deposited by the petitioners in furtherance of order dated 27-08-2004 passed by the appellate Tribunal.

2) The petitioners shall pay balance amount with interest in two equated monthly instalments. The first instalment shall be paid on or before 31-05-2006 and the second instalment shall be paid on or before 30-06-2006.

3) If the petitioners pay the balance amount in accordance with the direction contained in this order, then all the proceedings initiated by the bank for seizure and disposal of the property shall automatically lapse. If on the other hand, the petitioners fail to pay balance amount in two equated monthly instalments, then the bank shall be free to re-initiate the proceedings for auction of the property. In that event, the petitioners shall not be entitled to file any writ petition in this Court or any other litigation in any Court in the State of Andhra Pradesh.”

In the review application, the petitioners have complained that even though this Court did not lay down the condition of paying PLR interest, the bank is insisting on recovery of an additional amount of Rs.11,79,000/-. They have prayed that the Court may review order dated 26.4.2006 and clarify that the bank is not entitled to recover PLR interest.

We have considered the plea of the petitioners, but have not felt persuaded to accept the same. The writ petition filed by the petitioners was disposed of by the Court in the light of the statements made by learned counsel for the parties and there is nothing in order dated 26.4.2006 from which it can be inferred that the same suffers from an error apparent. Hence, the petition is dismissed. However, liberty is given to the petitioners to avail appropriate remedy, if any, available to them against the recovery of PLR interest.

G.S.SINGHVI, CJ

20th July, 2007

G.BHAVANI PRASAD, J

SVS